

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 05-6964**

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JAMES J. LEWIS, JR.,

Petitioner - Appellant,

versus

WARDEN, LIEBER CORRECTIONAL INSTITUTE,

Respondent - Appellee.

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Appeal from the United States District Court for the District of South Carolina, at Greenville. R. Bryan Harwell, District Judge. (CA-04-526)

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Submitted: September 29, 2005

Decided: October 11, 2005

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Before WILKINSON, KING, and GREGORY, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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James J. Lewis, Jr., Appellant Pro Se. Donald John Zelenka, Chief Deputy Attorney General, Columbia, South Carolina, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

James J. Lewis, Jr. seeks to appeal the district court's order accepting the recommendation of the magistrate judge and denying relief on his petition filed under 28 U.S.C. § 2254 (2000). An appeal may not be taken from the final order in a habeas corpus proceeding in which the detention complained of arises out of process issued by a state court unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). As to claims dismissed by a district court solely on procedural grounds, a certificate of appealability will not issue unless the petitioner can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir. 2001) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)). We have independently reviewed the record and conclude that Lewis has not satisfied either standard. See Miller-El v. Cockrell, 537 U.S. 322, 336 (2003). Accordingly, we deny leave to proceed in forma pauperis, deny a certificate of appealability, and dismiss the appeal. See 28 U.S.C. § 2253(c)

(2000). We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED